

No. 2712

United States
Circuit Court of Appeals
For the Ninth Circuit.

PAUL OESTING,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District
Court of the Northern District of California,
First Division.

Filed

FEB 4 - 1916

F. D. Monckton,

~~Clerk.~~

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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Names and Addresses of Attorneys of Record.

JOHN T. WILLIAMS and HERBERT CHOYNSKI,

Attorneys for Defendant, San Francisco, Calif.

UNITED STATES OF AMERICA,
District Court of the United States, Northern Dis-
trict of California.

Clerk's Office.

No. 5696.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PAUL OESTING,

Defendant.

Praeipce [for Transcript of Record].

To the Clerk of said Court:

Sir: Please issue

1. The indictment.
2. The plea.
3. The judgment.
4. The petition for writ of error, and specifications of error.
5. The order allowing writ of error.
6. The bond on appeal.
7. Minutes of June 21st, 1915.
8. Assignment of errors.
9. Original writ of error.
10. Original citation on writ of error.
11. This praeipce.

HERBERT CHOYNSKI,

Attorney for Defendant and Plaintiff in Error.

[Endorsed]: Filed Dec. 7, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [1*]

[Indictment.]

In the District Court of the United States, in and for the Northern District of California, First Division.

Violation Sec. 215, C. C. U. S.

At a stated term of said court begun and holden at the city and county of San Francisco, within and for the State and Northern District of California, on the first Monday of March in the year of our Lord one thousand nine hundred and fifteen,

The Grand Jurors of the United States of America, within and for the State and District aforesaid, on their oaths present: THAT

DR. PAUL OESTING, *alias* PAUL ALLEN, doing business at No. 986 Market Street in the city and county of San Francisco, in the State and Northern District of California under the name of Dr. Jordan, L. J. Jordan, Incorporated, and Jordan's Museum of Anatomy, a coporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the 15th day of May, in the year of our Lord one thousand nine hundred and twelve, in the city and county of San Francisco, State and Northern District of California, within the jurisdiction of this court, and under the guise

*Page-number appearing at foot of page of original certified Record.

and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the postoffice establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Paul Oesting, *alias* Paul [2] Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the United States, or in letters, booklets or other prints, wherein it should be set forth in substance or effect that the said Dr. Jordan was a physician practicing in the city and county of San Francisco, State of California, and specially qualified to treat private diseases of men, that is to say, among other diseases, syphilis, (blood poison), gonorrhoea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States, relative to their real or supposed ailments; that when

said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all of the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said [3] persons, irrespective of the symptoms theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Paul Oesting, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, large sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Paul Oesting, *alias* Paul Allen, to believe them-

selves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Paul Oesting, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed, prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Paul Oesting, *alias* Paul Allen, then and there having no proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or not said purported medicine or treatment was [4] capable of benefitting said persons, as he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew.

And he, the said Dr. Paul Oesting, *alias* Paul Allen, on the second day of July, in the year of our Lord one thousand, nine hundred and twelve, at the city and county of San Francisco, in the State and Northern District of California for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully, did place or cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and District aforesaid, or in a station, street-box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to John Bammer, Colusa, Calif., a copy of which said letter is as follows, to wit:

"Office of Dr. L. J.
Jordan, 986 Market
St., Opposite Sixth,
Hours: 9 A. M. to
5 P. M., and 7 to 9
P. M., Sundays, 10
to 12 A. M.

Private Address:
Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.
Established 50 years.
Diseases of Men.

San Francisco, Cal. July 2, 1912.

Mr. John Bammer,
Box 800, Colusa, Cal.

Dear Sir and Friend:

I have your return of the question blank and test papers. You should have written me by letter also—giving me any further information you deem necessary that I should know. From the data you sent me it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, and anemia neuresthenia, at the expense of some of the functions of the body. You require and demand treatment to place you on a par with your fellow men. You will find the testicles are weak and flabby and not manufacturing healthy spermatozoa. There is no evidence of Bright's disease, or proof of Diabetes, altho an overworked kidney may lead to both. You will find mucous strings flocculi or sediment [5] in the urine, indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual satisfaction required by all male animals of health.

Your case is a complicated one requiring careful and scientific treatment on the part of any physician who treats you. If you give your case into my hands I must have honest co-operation on your part, fol-

lowing to the letter my instructions, which are perfectly simple.

I don't profess to say that your case is an easy one to handle. But you can secure very material assistance. My treatment will create new blood, new muscle and new secretions, promote circulation, build up and maintain new nerve cells and fibres. The old tissues will be removed and new substituted in it's place. The weakened and run-down system will be built up and invigorated, and injected with spirit and life—such as should be found in every man who cares to give the proper attention to his health and the maintenance of his vigor and manhood power.

I will take your case and furnish the medicine required for \$10.00 a month. This is fair method of payment to you, although I do not know your financial circumstances. You need not hesitate to write me fully as everything is kept confidential. All medicines are sent out in plain packages, and no one knows from whom they come.

I would like your reply by return mail whether you wish to take up the treatment or not. By writing me your intentions, I will know what to *do* do about further correspondence. I do not like to write unnecessary letters to anyone, as they might go astray, or fall into *some elses* hands and cause you embarrassment; therefore, reply at once.

If you could come down and see me—I would be glad to have you do so. Please let me know if you can come, and at what time. I would like to talk with you, as things can be explained better by a per-

sonal interview than in a letter.

With kind regards, and best wishes, and awaiting your early reply, I remain,

Very sincerely yours,

Dict. X.

Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

SECOND COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

DR. PAUL OESTING, *alias* PAUL ALLEN, doing business at No. 986 Market Street in the city and county of San Francisco, in the State and Northern District [6] of California, under the name of Dr. Jordan, L. J. Jordan, Incorporated, and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the 15th day of May, in the year of our Lord, one thousand, nine hundred and twelve, in the city and county of San Francisco, in the State and District aforesaid, and within the jurisdiction of this court, and under the guise and name of the said Jordan's Museum of Anatomy, had devised a certain scheme or artifice to defraud, or for obtaining money and property by means of certain false pretenses, representations or promises, to be effected by means of the postoffice establishment of the United States, which said scheme or artifice

has been fully and at length set forth in the first count of this indictment, and which is now hereby particularly referred to and incorporated herein and made a particular part of this count of this indictment.

And having devised said scheme or artifice, and for the purpose of executing the same and in attempting so to do, they, the said Dr. Paul Oesting, *alias* Paul Allen, on the twenty-fifth day of February, in the year of our Lord one thousand, nine hundred and thirteen, at the city and county of San Francisco, in the State and Northern District of California and within the jurisdiction of this court, did wilfully, unlawfully, knowingly and feloniously place and cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and Northern District of California, or in a station, street-box or letter-box thereof, an authorized depository for mail matter to be sent or delivered by the postoffice establishment [7] of the United States, a certain envelope upon which postage had been fully prepaid, and addressed to J. P. Millspaugh, Cherry Creek, Nevada, and which envelope contained a certain letter in words and figures as follows, to wit:

"Office of Dr. L. J.
Jordan, 986 Market
St., Opposite Sixth,
Hours: 9 A. M. to
5 P. M., and 7 to 9
P. M., Sundays, 10
to 12 A. M.

Private Address:
Paul Allen,
986 Market Street.

Jordan's Museum of
Anatomy.
Established 50 years.
Diseases of Men.

San Francisco, Cal. Feb. 25, 1913.

Mr. J. P. Millspaugh,
Cherry Creek, Nevada.

Dear sir:

This is in reply to yours of recent date. The chemical test papers and question blank were carefully and scientifically considered. From this data it is my judgment that you have an excess of amorphous urates and phosphates, indicating wasted energy, anemia neuresthenia at the expense of some of the functions of the body. You require and demand treatment to place you on par with your fellow men.

You will find the testicles are weak and flabby and are not manufacturing healthy spermatozoa. There is no evidence of Bright's disease or proof of Diabetes, although an overworked kidney may lead to both. You will find mucous strings flocculi or sediment in the urine indicating prostatic inflammation at the neck of the bladder, with the consequent loss of vitality and absence of complete sexual satisfaction absolutely required by all male animals of health.

Your case is a complicated one requiring careful and scientific treatment on the part of any physician who takes upon himself the responsibility of treating you. If you give your case into my hands I must have honest co-operation on your part, following to

the letter my instructions. I will take your case and furnish all medicines required in the course of treatment for \$47.50 cash, or, if you wish to pay on time, \$17.50 down and \$10.00 monthly; time required, about three or four months. If you accept either of these propositions, which are very liberal, kindly remit the amount with which to start in, and continue to do so until cured. Sexual neuresthenia results from the violation of the laws of health so impairing the system that it ceases to perform its functions.

The victim is awakened by dreams, the result of this disturbance; this is continued, usually occurring at shorter intervals often accompanied by erotic dreams, until the organ becomes incapable of performing its functions, producing a long line of reflex irritations and complications.

You cannot afford to lose your stamina or to be a failure in life. Low spirits never bother the healthy, No one can be happy or successful unless well. There is latent power in everyone—all it wants is to be awakened and cared for. [8]

Expecting an early reply, I am,

Yours very truly,

Dict. by F. L.

Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

THIRD COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

DR. PAUL OESTING, *alias* PAUL ALLEN, doing business at No. 986 Market Street, in the city and county of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan, Incorporated, and Jurodan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May, in the year of our Lord one thousand, nine hundred and twelve, in the city and county of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the postoffice of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Paul Oesting, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published [9] within the United States, or in letters, booklets or other prints, wherein it should be set forth in substance or effect that the said Dr. Jordan was a physician practicing in the city and county of San Francisco, State of California, and specially qualified to treat private diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhoea, and diseases and affections arising therefrom, lost vitality, bladder, kidney,

prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States, relative to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective of the symptoms theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without [10] any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by

means of said letters so placed as aforesaid, by the said Dr. Paul Oesting, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, large sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Paul Oesting, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Paul Oesting, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared, and of little or no value, for the cure of the aforesaid persons, Dr. Paul Oesting, *alias* Paul Allen, then and there having no proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or not such purported medicine or treatment was capable of benefitting said persons, as he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew. [11]

And he, the said Dr. Paul Oesting, *alias* Paul Allen, on the fifteen the day of July, in the year of our Lord one thousand nine hundred and twelve, at

the city and county of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully did place or cause to be placed in the post-office establishment of the United States at San Francisco, in the State and District aforesaid, or in a station, street-box or letter-box thereof, an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to Mr. Geo. R. Alberts, Box 1648, Tombstone, Arizona, a copy of said letter being as follows, to wit:

"Office of Dr. L. J. Jordan, 986 Market St., Opposite Sixth, Hours: 9 A. M. to 5 P. M., and 7 to 9 P. M., Sundays, 10 to 12 A. M.	Private Address: Paul Allen, 986 Market Street.	Jordan's Museum of Anatomy. Established 50 years. Diseases of Men.
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San Francisco, Cal., July 15, 1912.

Mr. Geo. R. Alberts,
Box 1648,
Tombstone, Arizona.

My Dear Sir:—

I had expected to hear from you ere this. I have written several letters, and I think I am entitled to at least the courtesy of a reply—on account of the interest I have taken in your case. Of course, if you do not wish to treat with me, it is immaterial, but a young man in your condition, and thinking of marrying while you are physically and sexually

weak, is exhibiting a very pronounced lack of common sense, and dishonest with himself and those who will be dependent upon him in future years. You may be able to stave off matters for a time but the day will come when you will regret your carelessness. I say this candidly to you. I believe in talking plainly to men. It does no good to conceal from a man the things he should know. You have told me that you considered marriage. Would you attempt such a thing in your present weakened condition, and while you are sustaining a loss that each and every day is leaving you more unfit to attend to your family duties. Can you let this waste go on until your sexual organs have wasted and decreased to such an extent that you are unable [12] to provide your faithful and expectant wife with the happiness she naturally expects and must have to make the home circle happy, contented and peaceful. Can you afford to let your condition become such that it will cause you shame, and your wife disgrace and humiliation. No, deep down in your intuitive understanding you know that you cannot. Then why not remedy these matters, as can be done if you take the proper and immediate steps. I can bring about a restoration providing you come to me now, and follow out my instructions and advice.

It may be possible that my former letters did not reach you. If they did, it seems to me that you would reply ere this. However, they may have been held up in the postoffice, and providing I don't hear from you in reply to this within a reasonable time, I will write the postmaster to kindly see that you

get these letters, and explain to him that this is necessary on account of the condition that you are in, as I want to see you right before you get married. I deem it my duty as a physician to advise you not to neglect your case. I have always taken a strong interest in young men—and want them to be in proper physical and sexual condition before they take such steps as may prove embarrassing later.

I made you a very liberal fee, considering my reputation and ability as a physician in the medical and scientific world, of \$50.00 cash in advance for your case. In order to make it easy for you, as I want to help you in every way possible, I stated that if you could not send the whole amount at once, to send me \$20.00 by return mail and I would send you the first months medicines—then you can pay me \$10.00 a month thereafter. Isn't this fair. By taking the installment plan of paying, you can readily discontinue treatment after the first month or so providing you were not being benefitted. Of course, I do not wish to cause the impression that yours is an easy case. It will take a few months to put you in such condition as you should be in. Let me hear from you at once so I will know what to do with my records in your case. I must have some date before I can file same, and don't wish to annoy you with unnecessary correspondence. I thank you for your courtesy.

Yours sincerely,

Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

FOURTH COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT [13]

DR. PAUL OESTING, *alias* Paul Allen doing business at No. 986 Market Street, in the city and county of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan, Incorporated, and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May, in the year of our Lord one thousand nine hundred and twelve in the city and county of San Francisco, State and Northern District of California, within the jurisdiction of this court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to defraud, or for obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the postoffice establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Paul Oesting, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the United States, or in letters, booklets or other prints, wherein it should be set

forth in substance or effect that the said Dr. Jordan was a physician practicing in the city and county of San Francisco, State of California, and specially qualified to treat private diseases of men, that is to say, among other diseases, syphilis (blood poison), gonorrhoea, and diseases and affections arising therefrom, lost vitality, bladder, kidney, prostatic and urinary diseases, and had cured numerous persons afflicted [14] with said diseases, and by means of said advertisements, letters, booklets, or other prints, he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States relative to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all the times set forth in this indictment, by the means aforesaid, that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective of the symptoms theretofore communicated as aforesaid to him, and even in cases

where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons, were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Paul Oesting, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, [15] to deliver or send to the address of Dr. Jordan, large sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which the said persons were afflicted, or had been so induced by said Dr. Paul Oesting, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Paul Oesting, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared and of little or no value, for the cure of the aforesaid persons, Dr. Paul Oesting, *alias* Paul Allen, then and there having on proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or

not such purported medicine or treatment was capable of benefiting persons, as he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew.

And he, the said Dr. Paul Oesting, *alias* Paul Allen, on the seventh day of November 1912, at the city and county of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme or artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully, did place or cause to be placed in the post-office establishment of the United States, at San Francisco, in the State and District aforesaid, or in a station, street-box or letter-box thereof, [16] an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to Mr. Anson Ashford, Buckley, Wash., a copy of said letter being as follows, to wit:

"Office of Dr. L. J.	Private Address:	Jordan's Museum of
Jordan, 986 Market	Paul Allen,	Anatomy.
St., Opposite Sixth,	986 Market Street.	Established 50 years.
Hours: 9 A. M. to		Diseases of Men.
5 P. M., and 7 to 9		
P. M., Sundays, 10		
to 12 A. M.		

San Francisco, Cal., Nov. 7, 1912

Mr. Anson Ashford,

Buckley, Wash.

Dear Sir and Friend:—

I thank you for your remittance of \$2.50 which I

credited to your account. I also received the sample of urine, and the question blank, and other data. Same was carefully considered and the urine analyzed, and I find your condition is quite serious. The urine shows large percentages of sugar, showing a serious condition known as Diabetes. Immediate treatment is necessary, and my suggestion would be that you take up treatment at once. This is affecting the kidneys and no doubt causes the pains you mention. Do you ever feel a numb feeling at the ends of your fingers, or toes, ears, nose, etc? Your condition is very weak, as is shown by emissions at night and it is my opinion that your case is quite complicated. The losses at night have a tendency to weaken you, and derange the nervous and sexual systems. It causes loss of appetite, little desire for work; lack of memory; embarrassment; pains in sexual organs; weak eyes; lack of confidence and strength. The cells, muscles and tissues become wasted through an insufficient supply of blood or blood that is very much decreased in nourishing power. Your system needs a strong tonic and restorative, not merely a stimulant. Something that will build new blood, new bone, new muscle and new tissue, and throw off the decayed and waste substances, engorging the parts with a supply of fresh pure blood, and building the entire system up to normal.

Whether you treat with me or not—I advise you to seek at once the services of a competent and reputable physician; one that you know is above the average. If you do treat with me, I can promise

you results if you give me your co-operation and follow out my instructions and advice. I want no man's case unless he is honest and sincere and wants to be benefited. I am a very busy man and have no time to dissipate with triflers. From the fact that you sent me \$2.50 for a report, I think you are sincere and that you would make a desirable patient. I have spent the greater part of a life time treating, studying and curing the diseases of men, and have won a reputation that is second to none by my fair methods to all.

I am willing to take your case on that condition—namely that you will obey my instructions and take my [17] treatment faithfully. I will give you credit for the \$2.50 you paid me, and send you the first months medicines for \$22.50. Then I will reduce your fee after the first month to \$15.00 a month. I make this offer of monthly payments as it may be more convenient for you to pay in this manner. A few months will put you in good condition, and if you start now, you will notice very good results in a short time—but my dear young man, whatever you do, don't let this condition run along. If you want help, I can give it to you and would like to have your case at once. May I expect you on my list by return mail? You have youth and perhaps a good constitution, and your rapid and complete recovery should be gained without the possibility of failure.

Hoping to have your remittance by return mail, I am,

Yours sincerely,

Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

FIFTH COUNT.

And the Grand Jurors aforesaid, do further present: THAT

DR. PAUL OESTING, *alias* PAUL ALLEN, doing business at No. 986 Market Street, in the city and county of San Francisco, in the State and Northern District of California, under the name of Dr. Jordan, L. J. Jordan Incorporated, and Jordan's Museum of Anatomy, a corporation organized and existing under and by virtue of the laws of the State of California, late of the said State and District, heretofore, to wit, on or about the fifteenth day of May, in the year of our Lord one thousand nine hundred and twelve, in the city and county of San Francisco, State and Northern District of California, within the jurisdiction of this Court, and under the guise and name of the said Jordan's Museum of Anatomy, devised a certain scheme or artifice to [18] defraud or for obtaining money or property by means of certain false pretenses, representations or promises to be effected by means of the post office establishment of the United States, which said scheme or artifice is in substance and effect as follows:

That he, the said Dr. Paul Oesting, *alias* Paul Allen, should place or cause to be placed, advertisements in certain newspapers of general circulation published within the United States, or in

letters, booklets, or other prints, wherein it should be set forth in substance or effect that the said Dr. Jourdan was a physician practicing in the city and county of San Francisco, State of California, and specially qualified to treat private diseases of men, that is to say, among other diseases, syphilis, (blood poison), gonorrhoea, and diseases and affections arising therefrom, lost vitality, bladder, kidney prostatic and urinary diseases, and had cured numerous persons afflicted with said diseases, and by means of said advertisements, letters, booklets or other prints, he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there intended to cause or induce John Bammer, J. P. Millspaugh, George R. Alberts, Anson Ashford, and John Caroway, and divers other persons whose names are to the Grand Jurors aforesaid, unknown, and the public generally, to communicate and open correspondence with Dr. Jordan, by means of the postoffice establishment of the United States relative to their real or supposed ailments; that when said persons should communicate with him, the said Dr. Jordan, whom he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew was not a doctor or person existing in life or in fact during all the times set forth in this indictment, [19] by the means aforesaid that the said Dr. Jordan should write or communicate with said persons by means of letters placed in the said postoffice establishment of the United States, and in substance and effect should state to each of such persons, with intent to defraud each and all of said persons, irrespective of the symptoms

theretofore communicated as aforesaid to him, and even in cases where the symptoms indicated health rather than disease, and without any proper knowledge of the real condition of said persons, that they, the said persons were afflicted with diseases which he, the said Dr. Jordan, could cure, and that he would furnish treatments for the cure of such alleged diseases upon the payment to him of certain sums of money; and that by means of said letters so placed as aforesaid, by the said Dr. Paul Oesting, *alias* Paul Allen, he then and there intended to cause or induce all of said persons so communicating with the said Dr. Jordan as aforesaid, to deliver or send to the address of Dr. Jordan, large sums of money for the purpose of procuring from him (as said persons had been led to believe), medicine or treatments skilfully or properly designed or prepared for the cure or alleviation of the diseases with which said persons were afflicted, or had been so induced by said Dr. Paul Oesting, *alias* Paul Allen, to believe themselves to be afflicted, which said sums of money, so sent or delivered to the said Dr. Jordan as aforesaid, he, the said Dr. Paul Oesting, *alias* Paul Allen, should fraudulently convert or appropriate to his own use, and in return therefor, should send or deliver to each of said persons so sending or delivering to him sums of money, certain medicine or treatment not skilfully or properly designed or prepared, [20] and of little or no value for the cure of the aforesaid persons, Dr. Paul Oesting, *alias* Paul Allen, then and there

having no proper or professional knowledge of such persons' conditions, or whether such persons were diseased or not, or whether or not such purported medicine or treatment was capable of benefiting said persons, as he, the said Dr. Paul Oesting, *alias* Paul Allen, then and there well knew.

And he, the said Dr. Paul Oesting, *alias* Paul Allen, on the twenty-first day of September, in the year of our Lord one thousand nine hundred and twelve, at the city and county of San Francisco, in the State and Northern District of California, for the purpose of executing said scheme and artifice, or in attempting so to do, unlawfully, feloniously, knowingly and wilfully, did place or cause to be placed in the postoffice establishment of the United States at San Francisco, in the State and District aforesaid, or in a station, street-box or letter-box thereof an authorized depository for mail matter, to be sent or delivered by the postoffice establishment of the United States, a certain letter upon which the postage had been fully prepaid, and addressed to Mr. John Caroway, Oroville, Calif., a copy of which said letter being as follows, to wit:

"Office of Dr. L. J.	Private Address:	Jordan's Museum of
Jordan, 986 Market	Paul Allen,	Anatomy.
St., Opposite Sixth,	986 Market Street.	Established 50 years.
Hours: 9 A. M. to		Diseases of Men.
5 P. M., and 7 to 9		
P. M., Sundays, 10		
to 12 A. M.		

San Francisco, Cal., Sept. 21, 1912

Mr. John Caroway,
Oroville, Calif.

Dear Sir:—

If a man came along and offered you \$2.50, or the

opportunity to make this amount, would you refuse the [21] offer? If you are a young man working for a daily, or weekly, or monthly wage—wouldn't an offer of this kind appeal to you. I have offered you the opportunity several times to do this—to make a clean saving of \$2.50, but you have failed thus far to accept. It would be an investment of \$2.50 towards health insurance, by far the greatest insurance in the world—for good health is the most valuable asset of mankind. Charity begins at home. Be charitable to yourself. One can go on for a time fooling themselves, but you cannot fool nature. Our Creator, through his natural gifts, intended that each and every one of us should be healthy, which means happiness, freedom from worry, content and *dolce far niente*.

It is only through sickness, abuse, excess, or accident that we become weakened; that some of the organs refuse to perform their functions satisfactorily. The organs become weak and cannot retain the vital fluid that sustains and buoys up the system. Once this loss commences, a warning is given that something is radically wrong. The vital drain saps the virility, energy and physical vigor of the entire body—causing a feeling of ennui, drowsiness, lack of energy, sleepiness, in fact feelings that are indescribable.

Can you not spare 5 minutes of your busy time to write me when you intend taking up treatment? I know you are perhaps very busy—but if you have the time to read my letters, you can at least spare time to answer this one—either one way or

the other. Remember, I don't want your case after your system has become so weakened and broken down that no doctor, or no treatment can restore you. Send me \$12.50, a saving of \$5.00 and I will send you the first month's medicines at once.

Very sincerely,

Dr. L. J. JORDAN."

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

JOHN W. PRESTON,

United States Attorney.

Names of Witnesses Appearing Before the Grand Jury:

JAMES O'CONNELL.

E. HONVERY.

[Endorsed]: A true Bill W. N. Concanon, Foreman Grand Jury. Presented in open court and filed May 4, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [22]

[**Minutes, May 26, 1915—Order Directing Entry of
Plea of “Not Guilty.”**]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Wednesday, the 26th day of May, in the year of our Lord one thousand nine hundred and fifteen. Present: The Honorable M. T. DOOLING, District Judge.

No. 5696.

UNITED STATES OF AMERICA

vs.

PAUL OESTING.

This case came on regularly this day for the entry of the plea of defendant to the indictment herein against him. Defendant was present in court with his attorney, Mr. Williams, and then and there plead Not Guilty to the indictment herein, which plea the Court ordered, and the same is hereby, entered. Thereupon, on motion of W. E. Hettman, Esq., Assistant United States Attorney, the Court ordered that said case be, and the same is hereby, continued until June 26th, 1915, to be set for trial of said defendant. [23]

[Minutes, June 21, 1915—Order Directing Entry of
Plea of "Guilty," etc.]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Monday, the 21st day of June, in the year of our Lord one thousand nine hundred and fifteen. Present: The Honorable M. T. DOOLING, District Judge.

No. 5696.

UNITED STATES OF AMERICA

vs.

PAUL OESTING.

This case came on regularly this day to be set for the trial of defendant upon the indictment herein against him. John W. Preston, Esq., appeared as United States Attorney. Defendant was present with his attorney, John T. Williams, Esq. After hearing Mr. Preston, defendant requested permission to withdraw his plea of Not Guilty heretofore entered herein, which request the Court granted and defendant then and there withdrew his said plea and then and there entered a plea of Guilty to said indictment, which plea the Court ordered, and the same is hereby, entered. Mr. Williams then made a statement to the Court and called Dr. Douglas Montgomery, F. C. Talbot, C. M. Belshaw, C. W. Smith and Paul Oesting (defendant), each of whom were duly sworn and examined on behalf of defendant.

Thereupon, after hearing Mr. Preston, defendant was called to the bar for judgment and asked if he had any legal cause to show why such judgment should not be pronounced herein against him and no sufficient cause being shown or appearing to the Court, it is ordered that said defendant Paul Oesting, for the offense of which he stands convicted herein, be imprisoned for the period of one year in the county jail of [24] Alameda County, State of California, and that he pay a fine in the sum of Five Hundred (\$500) Dollars and in the default of the payment thereof he be further imprisoned until said fine is paid or he be otherwise discharged by due process of law. Further ordered that defendant be committed to the custody of the United States Marshal for this District to execute said judgment of Imprisonment and that commitment issue accordingly. On motion of Mr. Williams, further ordered that the execution of said judgment be, and the same is hereby, stayed for a period of five (5) days from the date hereof. [25]

*In the District Court of the United States, Northern
District of California, First Division.*

No. 5696.

Convicted of Using U. S. Mails for Scheme to
Defraud.

UNITED STATES OF AMERICA

vs.

PAUL OESTING.

Judgment on Plea of Guilty.

John W. Preston, Esq., United States Attorney, and the defendant with his counsel came into court. The defendant was duly informed by the Court of the nature of the indictment filed against him on the 4th day of May, 1915, and of his arraignment and plea of guilty.

The defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him, and no sufficient cause being shown or appearing to the Court, thereupon the Court rendered its judgment:

THAT WHEREAS the said defendant having been duly convicted in this court as aforesaid:

IT IS THEREFORE ORDERED and ADJUDGED that the said Paul Oesting be imprisoned in the Alameda County Jail, Alameda Co., California, for the period of one year, and that he pay a fine in the sum of \$500, and in default of the payment of said fine that said Paul Oesting be further imprisoned until said fine be paid.

Entered this 21st day of June, 1915.

W. B. MALING,

Clerk,

By C. W. Calbreath,

Deputy Clerk. [26]

*In the United States District Court, in and for the
Northern District of California.*

Number —.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PAUL OESTING,

Defendant.

Petition for Writ of Error and Order Allowing Writ.

Your petitioner, Paul Oesting, the defendant above named, brings this, his petition for a writ of error, to the District Court of the United States, in and for the Northern District of California, and respectfully represents:

That heretofore, by final judgment of the District Court of the United States, in and for the Northern District of California, rendered and entered in a criminal action therein pending and in which the United States of America is plaintiff and your petitioner defendant, it was adjudged that your petitioner was guilty of the offense of using the post-office establishment of the United States to defraud certain and sundry persons, as charged in the indictment theretofore returned by the United States Grand Jury, and as a punishment therefor your petitioner was sentenced to serve one year of imprisonment in the county jail of the county of Alameda, State of California, and to pay a fine of five hundred dollars.

That your petitioner claims a writ of error against said judgment from the United States Circuit Court

of Appeals, for the Ninth Circuit, and in that behalf avers that there is manifest error in said indictment upon which said judgment was based, and in said judgment, as set out in the assignment of errors filed herewith. [27]

WHEREFORE, your petitioner prays that he be allowed herein a writ of error upon said judgment rendered against him from the United States Circuit Court of Appeals for the Ninth Circuit to the said District Court of the United States, in and for the Northern District of California; that he be awarded a *supersedeas* upon said judgment and all necessary process including bail.

HERBERT CHOYNSKI,

JOHN T. WILLIAMS,

Attorneys for Petitioner.

Order Allowing Writ.

The foregoing petition for a writ of error is granted; the writ of error and the *supersedeas* therein prayed for pending the decision upon the writ of error are allowed, and the defendant Paul Oesting is admitted to bail upon the writ of error in the sum of Five Thousand Dollars.

The bond for costs upon the writ of error is hereby fixed at the sum of One Hundred (\$100) Dollars.

WM. H. SAWTELLE,

United States District Judge.

[Endorsed]: Filed Jun. 26, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [28]

*In the United States District Court, in and for the
Northern District of California.*

UNITED STATES OF AMERICA

vs.

PAUL OESTING,

Defendant.

Assignment of Errors.

Paul Oesting, defendant in the above-entitled cause and plaintiff herein, having petitioned for an order from said Court permitting him to procure a writ of error in this court directed from the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and sentence made and entered in said cause against Paul Oesting, now makes and files with said petition the following assignment of errors herein upon which he will rely in applying for a reversal of said judgment and sentence upon said writ and which said errors, and each and every one of them are to the great detriment, injury and prejudice of said defendant and in violation of the rights conferred upon him by law and he says that in the records and proceedings in the above-entitled cause upon the hearing and determination thereof in the District Court of the United States for the Northern District of California there is manifest error in this, to wit:

1. That the said District Court erred in giving judgment against defendant for the reason that the indictment in said action fails to set forth sufficient facts to constitute an offense under the laws of the United States.

2. That the said District Court erred in sentencing said defendant for the same reason. [29]

3. That the said District Court erred in passing judgment for the same reason.

JOHN T. WILLIAMS,
HERBERT CHOYNSKI,
Attorneys for Defendant.

[Endorsed]: Filed Jun. 26, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [30]

Bond on Writ of Error.

KNOW ALL MEN BY THESE PRESENTS, that we, Paul Oesting, as principal, and Louisa Oesting and P. H. Livingston, as sureties, are held and firmly bound unto The United States of America in the just sum of one hundred dollars, to be paid to the said United States of America, certain attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 12th day of July in the year of our Lord one thousand nine hundred and fifteen.

WHEREAS, lately at a District Court of the United States for the Northern District of California in a suit depending in said court, between The United States and said Paul Oesting, a judgment was rendered against the said Paul Oesting and the said Paul Oesting having obtained from said Court a writ of error to reverse the judgment in the afore-

said suit, and a citation directed to the said United States of America citing and admonishing it to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California.

NOW, the condition of the above obligation is such, that if the said Paul Oesting shall prosecute his writ of error to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

PAUL OESTING. (Seal)

LOUISA OESTING. (Seal)

P. H. LIVINGSTON. (Seal)

Acknowledged before me the day and year first above written.

[Seal]

FRANCIS KRULL. [31]

United States of America,
Northern District of California,—ss.

Louisa Oesting and P. H. Livingston being duly sworn, each for himself, deposes and says, that he is a freeholder in said district, and is worth the sum of one hundred dollars, exclusive of property exempt from execution, and over and above all debts and liabilities.

LOUISA OESTING.

P. H. LIVINGSTON.

Subscribed and sworn to before me this 12th day of July, A. D. 1915.

[Seal]

FRANCIS KRULL.

[Endorsed]: Filed Jul. 12, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [32]

[Certificate of Clerk U. S. District Court to Transcript of Record.]

I, Walter B. Maling, Clerk of the District Court of the United States of America for the Northern District of California, do hereby certify the foregoing 32 pages, numbered from 1 to 32 inclusive, contain a full, true and correct transcript of certain records and proceedings, in the case of the United States of America vs. Paul Oesting, numbered 5696, as the same now remain on file and of record in the office of the clerk of said District Court; said transcript having been prepared pursuant to and in accordance with "praecipe" (copy of which is embodied herein), and the instructions of the attorneys for defendant and appellant herein.

I further certify that the costs for preparing and certifying the foregoing transcript on writ of error is the sum of Twenty Dollars (\$20.00), and that the same has been paid to me by the attorneys for the plaintiff in error herein.

Annexed hereto is the original citation on writ of error (page 36) and the original writ of error (page 34), with the return of the said District Court to said writ of error attached thereto (page 35).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 21st day of December, 1915.

[Seal]

WALTER B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
12/21/15. C. W. C.] [33]

Writ of Error.

UNITED STATES OF AMERICA,—ss.

The President of the United States of America,
To the Honorable, the Judges of the District
Court of the United States for the Northern
District of California, Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between United States of America, defendant in error, and Paul Oesting, plaintiff in error, which said cause is Number 5696, in the files and records of said court, a manifest error hath happened, to the great damage of the said Paul Oesting, plaintiff in error, *plaintiff in error*, as by his complaint appears:

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the city of San Francisco, in the State of California, within thirty days from the date hereof, in the said Circuit Court of Appeals, to be then and there held, that, the record and proceedings aforesaid being inspected,

the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, the seventh day of December, in the year of our Lord one thousand nine hundred and fifteen.

[Seal] W. B. MALING,
Clerk of the United States District Court, for the
Northern District of California.

C. W. Calbreath,
Deputy Clerk.

Allowed by

M. T. DOOLING,
United States District Judge.

[Endorsed]: No. 5696. United States District Court for the Northern District of California. Paul Oesting, Plaintiff in Error, vs. United States of America, Defendant in Error. Writ of Error. Filed Dec. 7, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

Service of the within ——— by copy admitted this 7 day of Dec., 1915.

JNO. W. PRESTON,
U. S. Attorney, Attorney for Deft. in Error. [34]

Return to Writ of Error.

The answer of the Judges of the District Court of the United States of America, for the Northern District of California, to the within writ of error.

As within we are commanded, we certify under the seal of our said District Court, in a certain schedule to this writ annexed, the record and all proceedings of the plaint whereof mention is within made, with all things touching the same, to the United States Circuit Court of Appeals for the Ninth Circuit, within mentioned, at the day and place within contained.

We further certify that a copy of this writ was on the 7th day of December, A. D. 1915, duly lodged in the case in this court for the within-named defendant in error.

By the Court:

[Seal]

W. B. MALING,

Clerk, United States District Court, Northern District of California.

By C. W. Calbreath,

Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
12/21/15. C. W. C.] [35]

Citation on Writ of Error.

UNITED STATES OF AMERICA,—ss.

The President of the United States, To the United States of America, and to John W. Preston, Esquire, United States Attorney for the Northern District of California, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of

error duly issued and now on file in the clerk's office of the United States District Court for the Northern District of California, wherein Paul Oesting is plaintiff in error, and The United States of America is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 7th day of December, A. D. 1915.

M. T. DOOLING,
United States District Judge.

[Endorsed]: No. 5696. United States District Court for the Northern District of California. Paul Oesting, Plaintiff in Error, vs. United States of America, Defendant in Error. Citation on Writ of Error. Filed Dec. 7, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

Service of the within ——— by copy admitted this 7th day of Dec., 1915.

JNO. W. PRESTON,
U. S. Attorney,
Attorney for Deft. in Error. [36]

[Endorsed]: No. 2712. United States Circuit Court of Appeals for the Ninth Circuit. Paul Oesting, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Northern District of California, First Division.

Filed December 21, 1915.

F. D. MONCKTON,
Clerk of the United States Circuit Court of
Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.